

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SAID ELMAJZOUB.

Petitioner,

V.

QUENTIN BYRNE, et al.,

Respondents.

Case No. 3:15-cv-00624-RCJ-VPC

ORDER

Petitioner having filed an unopposed motion to reopen (ECF No. 28), and good cause appearing;

IT THEREFORE IS ORDERED that petitioner's unopposed motion to reopen (ECF No. 28) is **GRANTED**. The clerk of the court shall reopen this action and lift the stay.

IT FURTHER IS ORDERED that petitioner will have up to and including April 20, 2020, to file an amended petition.

IT FURTHER IS ORDERED that respondents shall file a response to the amended petition, including potentially by motion to dismiss, within sixty (60) days of service of an amended petition and that petitioner may file a reply within sixty (60) days of service of an answer. The response and reply time to any motion filed by either party, including a motion filed in lieu of a pleading, shall be governed instead by Local Rule LR 7-2(b).

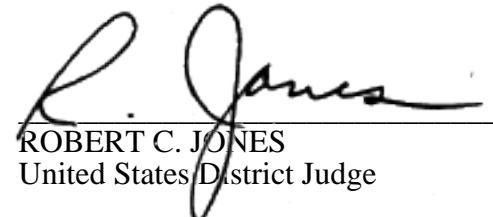
1 IT FURTHER IS ORDERED that any procedural defenses raised by respondents to the
2 counseled amended petition shall be raised together in a single consolidated motion to dismiss. In
3 other words, the Court does not wish to address any procedural defenses raised herein either in
4 serial fashion in multiple successive motions to dismiss or embedded in the answer. Procedural
5 defenses omitted from such motion to dismiss will be subject to potential waiver. Respondents
6 shall not file a response in this case that consolidates their procedural defenses, if any, with their
7 response on the merits, except pursuant to 28 U.S.C. § 2254(b)(2) as to any unexhausted claims
8 clearly lacking merit. If respondents do seek dismissal of unexhausted claims under § 2254(b)(2):
9 (a) they shall do so within the single motion to dismiss not in the answer; and (b) they shall
10 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set forth in
11 Cassett v. Stewart, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no procedural defenses,
12 including exhaustion, shall be included with the merits in an answer. All procedural defenses,
13 including exhaustion, instead must be raised by motion to dismiss.

14 IT FURTHER IS ORDERED that, in any answer filed on the merits, respondents shall
15 specifically cite to and address the applicable state court written decision and state court record
16 materials, if any, regarding each claim within the response as to that claim.

17 IT FURTHER IS ORDERED that, notwithstanding Local Rule LR IC 2-2(g) paper copies
18 of any electronically filed exhibits need not be provided to chambers or to the staff attorney,
19 unless later directed by the court.

20 IT FURTHER IS ORDERED that the earlier unopposed motion to reopen (ECF No. 26),
21 filed December 4, 2019, is **DENIED** as moot.

22 DATED: **February 25, 2020.**



23 ROBERT C. JONES
24 United States District Judge
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